

[Unapproved and Subject to Change]
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

September 11, 2008

Call To Order: Chairman Ross Johnson called the meeting to order at 10:05 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Tim Hodson, Gene Huguenin, Bob Leidigh, and Ray Remy were present.

- 1. Public Comment.** This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

There was none.

- 2. Approval of the August 14, 2008, Commission meeting minutes.**

Moved by Commissioner Huguenin and seconded by Commissioner Remy to approve the minutes as submitted.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 3. In the Matter of Stephen P. Collins, Collins for Supervisor, and F. Warren Wayland, FPPC No. 06/797.** Staff: Staff Counsel IV Melodee A. Mathay. Respondent Stephen P. Collins was an unsuccessful candidate for the Monterey County Board of Supervisors District 5 in the March 2, 2004 primary election. Respondent Collins for Supervisor (the "Committee") was the controlled committee of Respondent Collins, and Respondent F. Warren Wayland was the treasurer of Respondent Committee. In this matter, Respondents failed to properly report the true source of two loans totaling \$70,000 received during the campaign, in violation of Government Code Section 84211, subdivision (g) (2 counts).

Moved by Commissioner Huguenin and seconded by Commissioner Remy to approve a Stipulation, Decision and Order finding a violation of two counts and a \$7,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 4. In the Matter of No on 54: Teachers, Workers, Healthcare, Civil Liberties & Entertainment Groups and Abdi Soltani, FPPC No. 05/527.** Staff: Staff Counsel IV Melodee A. Mathay. Respondent No on 54: Teachers, Workers, Healthcare, Civil Liberties & Entertainment Groups ("Respondent Committee") was a primarily formed recipient committee opposed to Proposition 54 in the statewide special election held

in October 2007. Respondent Abdi Soltani was the treasurer of Respondent Committee. In this matter, Respondents failed to timely file online election cycle reports for contributions totaling \$90,282, received between September 24, 2003 and October 6, 2003, in violation of Government Code Section 85309, subdivision (b) (4 counts).

Moved by Commissioner Huguenin and seconded by Commissioner Remy to approve a Stipulation, Decision and Order finding a violation of four counts and an \$8,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 5. In the Matter of Shirley Husar, FPPC No. 07/750.** Staff: Commission Counsel Angela Brereton and Political Reform Consultant Teri Rindahl. Shirley Husar, a designated employee pursuant to the Conflict of Interest Code of the Department of Consumer Affairs as a member of the Geologists and Geophysicists Board, failed to timely file her assuming office statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Huguenin and seconded by Commissioner Remy to approve a Stipulation, Decision and Order finding a violation of one count and a \$250 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 6. In the Matter of Alejandro Mayorkas, FPPC No. 08/161.** Staff: Political Reform Consultant Teri Rindahl. Alejandro Mayorkas, Criminal Justice Planning Commission member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Huguenin and seconded by Commissioner Remy to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- 7. In the Matter of Stephen Hart, FPPC No. 07/366.** Staff: Political Reform Consultant Teri Rindahl. Stephen Hart, Butteville Union Elementary School Board member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Huguenin and seconded by Commissioner Remy to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Before moving to the next agenda items, Chairman Johnson asked if anyone in the audience had questions or comments regarding items on the consent calendar. There were none.

8. Prenotice Discussion of Proposed Regulation 18420.1 – Expenditures by Governmental Agencies for Communications Relating to a Ballot Measure.

Staff: Commission Counsel Brian G. Lau and General Counsel Scott Hallabrin. Staff proposed clarifying that a payment of public funds by a governmental agency for a communication relating to a ballot measure is an expenditure under the Act unless the communication provides a fair and impartial presentation of facts or the communication is otherwise required by law.

Staff prepared a Powerpoint presentation on this topic for the Commission and audience. After the presentation and discussion, Chairman Johnson asked if anyone in the audience had comments regarding this item.

Michael Martello, City Attorney, City of Mountain View, spoke on behalf of the League of Cities, FPPC Committee, in opposition to this regulation.

Moved by Commissioner Huguenin and seconded by Commissioner Leidigh to approve the proposed regulation for prenotice. Staff was directed to schedule an interested persons meeting for additional input from the public before the December 2008 Commission meeting, and to present the regulation for adoption at the December meeting.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

9. Prenotice Discussion of Repeal and Readoption of Regulation 18944.1 and Adoption of Regulation 18944.3 – Tickets, Free Admissions and Items Received Through or From an Official's Agency.

Staff: Commission Counsel William J. Lenkeit and General Counsel Scott Hallabrin. Staff proposed amendments to Regulation 18944.1, which addresses whether tickets and other free admissions to events that public officials receive from their agencies are gifts to those officials. The proposal would repeal the current regulation and adopt new rules clarifying that tickets and free admissions received by public officials, whether from an outside source and through the official's agency, or directly from the official's agency, are gifts to the official unless use of the ticket/admission furthers a specific governmental or public purpose in addition to any private benefit the official may receive. Proposed Regulation 18944.3 would clarify that when an agency makes a payment that provides a personal benefit to an official and that payment is not a lawful expenditure of public funds, the payment is a gift under the Act.

Chairman Johnson asked if anyone in the audience had comments in support of or in opposition to this regulation. Several people in the audience spoke in opposition to this regulation: Michael Martello, City Attorney, City of Mountain View, on behalf of the League of Cities, FPPC Committee; Cristina Talley, Sr. Assistant City Attorney, City of Anaheim; and Michele Beal Bagneris, City Attorney, City of Pasadena. Jim Porterfield spoke in support of this regulation.

Moved by Commissioner Hodson and seconded by Commissioner Leidigh to approve the repeal and readoption of Regulation 18944.1, as amended by staff, for prenotice, and to present Regulations 18944.1 and 18944.3 for adoption at the December 2008 meeting. AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

10. September 2008 - Work Plan Revisions. Staff: Assistant General Counsel John W. Wallace and General Counsel Scott Hallabrin. This memorandum proposes various changes to the regulatory calendar as part of the quarterly review of the work plan.

As submitted. Also, Mr. Hallabrin explained that the work plan schedule was adjusted since there would be no Commission meeting in November.

11. Legislative Report. Staff: Commission Counsel Sukhi Brar and Executive Director Roman Porter.

The Commissioners had some questions and concerns regarding AB 583 (Hancock). Mr. Porter answered their questions and updated the Commission regarding the bill.

Moved by Commissioner Remy and seconded by Commissioner Huguenin that a letter be sent to the Governor on behalf of the Commission urging him to veto AB 583 on the grounds that the measure does not provide the FPPC with adequate funding to carry out the additional responsibilities that would be imposed on the Commission.

12. Litigation Report. Staff: General Counsel Scott Hallabrin.

As submitted.

13. Executive Director's Report. Staff: Executive Director Roman Porter.

As submitted.

14. Chairman's Report. Chairman Ross Johnson.

Chairman Johnson commended Roman Porter, the new Executive Director, for the excellent job he had done since his appointment on July 6.

The Chairman recessed open session at 12:25 p.m. and advised the Commission would immediately convene in executive session.

The Commission reconvened in open session at 1:00 p.m. Chairman Johnson advised there were no reportable actions in executive session and, with no further business coming before the Commission, adjourned the meeting at 1:01 p.m.

Dated: September 15, 2008

Respectfully submitted,

Beth Manwaring
Commission Assistant

Approved: _____
Ross Johnson
Chairman